

§211.8

to discuss the possibility of mitigation to reduce any adverse impact; and

(2) Designate one or more DoD Components to engage in discussions with the requester to attempt to mitigate the adverse impact.

(B) When the requester is a State, Indian tribal, or local official or a landowner, notify the requester of the determination and the reasons for that conclusion.

(c) If the requester is the project proponent and agrees to enter into discussions with the DoD to seek to mitigate an adverse impact, the designated DoD Components shall engage in discussions with the requester in an attempt to reach agreement on measures that would mitigate the adverse impact of the project on military operations and readiness.

§211.8 Inquiries received by DoD Components.

(a) An inquiry received by a DoD Component other than the Clearinghouse relating to an application filed with the Secretary of Transportation pursuant to 49 U.S.C. 44718 shall be forwarded to the Clearinghouse by the DoD Component except when that DoD Component has been designated by the Clearinghouse to engage in discussions with the entity making the inquiry.

(b) A request for informal DoD review or any other inquiry related to matters covered by this part and received by a DoD Component other than the Clearinghouse shall be forwarded to the Clearinghouse by that Component except when that DoD Component has been designated by the Clearinghouse to engage in discussions with the entity making the request.

§211.9 Mitigation options.

(a) In discussing mitigation to avoid an unacceptable risk to the national security of the United States, the DoD Components designated to discuss mitigation with an applicant or requester shall, as appropriate and as time allows, analyze the following types of DoD mitigation to determine if they identify feasible and affordable actions that may be taken to mitigate adverse impacts of projects on military operations and readiness:

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(1) Modifications to military operations.

(2) Modifications to radars or other items of military equipment.

(3) Modifications to military test and evaluation activities, military training routes, or military training procedures.

(4) Providing upgrades or modifications to existing systems or procedures.

(5) The acquisition of new systems by the DoD and other departments and agencies of the Federal Government.

(b) In discussing mitigation to avoid an unacceptable risk to the national security of the United States, the applicant or requester, as the case may be, should consider the following possible actions:

(1) Modification of the proposed structure, operating characteristics, or the equipment in the proposed project.

(2) Changing the location of the proposed project.

(3) Limiting daily operating hours or the number of days the equipment in the proposed structure is in use in order to avoid interference with military activities.

(4) Providing a voluntary contribution of funds to offset the cost of measures undertaken by the Secretary of Defense to mitigate adverse impacts of the project on military operations and readiness.

§211.10 Reporting determinations to Congress.

(a) Not later than 30 days after making a determination of unacceptable risk pursuant to §211.6, the senior officer shall submit to the congressional defense committees a report on such determination and the basis for such determination.

(b) Such a report shall include—

(1) An explanation of the operational impact that led to the determination.

(2) A discussion of the mitigation options considered.

(3) An explanation of why the mitigation options were not feasible or did not resolve the conflict.